DOCUMENT RESUME

ED 084 620 EA 005 531

AUTHOR	Dale, Charlene T.; And Others
TITLE	Wanted--More Women: Where Are the Women Superintendents?
INSTITUTION	National Council of Administrative Women in Education, Washington, D.C.
PUB DATE	[73]
NOTE	29p.
AVAILABLE FROM	National Council of Administrative Women in Education, 1815 Fort Myer Drive, Arlington, Virginia 22209 ($2.50)
EDRS PRICE	MF-$0.65 HC Not Available from EDRS.
DESCRIPTORS	*Administrative Personnel; Administrator Guides; Bibliographies; *Employment Patterns; Employment Practices; Employment Statistics; *Federal Legislation; Public Schools; *Sex Discrimination; Tables (Data); *Working Women

ABSTRACT

The National Council of Administrative Women in Education proposes that the time is here to advance American education by enlivening the upper levels of the educational establishment with a new flow of qualified women into administrative and policymaking positions. The basic principle that emerges from government employment requirements is that women must be treated as people. Employers, including school boards, must make supervisors conscious of the ways in which they treat women differently from men in the work situation. In the coming years, sex discrimination will neither be taken for granted nor accepted as natural. The difficulties of transition in school systems and educational institutions will be easier for those employers who take steps early to inform themselves of the issues and who demonstrate good faith by initiating positive action to correct inequities. (Author/WM)

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NATIONAL INSTITUTE OF
EDUCATION

where are the women superintendents?

Eleanor Dolan

WANTED—MORE WOMEN

EA 005 521

NATIONAL COUNCIL OF ADMINISTRATIVE WOMEN IN EDUCATION

FOREWORD

In 1965 WANTED MORE WOMEN IN EDUCATIONAL LEADERSHIP was published by the NCAWE. Since then it has proved its timeliness and value in the drive to put more women into administrative posts. In fact, its argument and its statistics have been definitive in many professional discussions.

However, the movement for more women administrators has changed and speeded up, especially under the spur of Federal legislation. NCAWE found that this publication was more than ever needed, but would be more useful if it was brought up to date. Therefore, a very able commictee was selected to make the changes, and ... WANTED MORE WOMEN: WHERE ARE THE WOMEN SUPERINTENDENTS? .... is the result. The basic problem of the earlier publication is dealt with, but given the latest emphases and information. The absence of women in decision-making in the public schools is highlighted, with examples, and added are the most recent Federal laws and interpretations which require equal treatment of women in administrative positions.

NCAWE is confident that WANTED MORE WOMEN: WHERE ARE THE WOMEN SUPERINTENDENTS? will be of immeasurable use to the educational profession as it seeks to correct the present inequitable position of women in policy-making positions. NCAWE believes that the problem and this new information should be brought directly to the attention of every policy-maker in your school system so that the new information will be taken into account in their thinking and decisions.

Frances Hamilton, President,1971 - 1973

Fern Ritter, President, 1973 - 1975

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This publication may be ordered from:

THE NATIONAL COUNCIL OF ADMINISTRATIVE WOMEN IN EDUCATION
1815 Fort Myer Drive
Arlington, Virginia 22209

Price: $2.50 - Payment must accompany order

INTRODUCTION

On November 20, 1971, the Status of Women Committee of the National Council of Administrative Women in Education met to discuss the progress, and the lack of progress, of women aspiring to administrative posts in education. The Committee easily arrived at consensus: The administrative talents of women in this country are deplorably under utilized, despite the fact that public policy now calls for the fullest possible development of each individual person. Among the goals set was a publication that would re-state the necessity for infusing administrative teams with the feminine viewpoint, ability and creativity.

Six years earlier, (1965) the National Council of Administrative Women produced a publication entitled: WANTED: More Women In Educational Leadership. That publication substantiated with research and historical evidence the fact that women, given motivation and preparation, do succeed as educational administrators.

It pointed out that discouraging to aspiring women is their belief that administrators favor men for advancement. The publication appealed to school boards, superintendents, and college presidents, urging them to recognize women's administrative abilities.

Despite these recommendations, the sad trend has continued. Statistics show women's role in educational administration has continued to decline. It is apparent to most women educators that an appeal to good will and good sense had little effect upon the policies of school systems and education institutions. Something more was needed.

Where Are the Women Superintendents? builds upon the solid foundation of information and recommendations provided in the earlier NCAWE publication. In addition to updated statistics compiled by Evelyn Carlson to illustrate the widening gap between opportunities for men and opportunities for women in educational administration, it is possible to add a section on legal resources. The 1972 Congress adopted legislation which gave women educators legal backing in pursuit of their professional rights. Dr. Catherine East itemizes and interprets legislation which benefits women in education and notes that a threat of legal action can affect behavior.

Where Are the Women Superintendents? reflects the new confidence and attitude of women in general. They accept their abilities as organizers and their capabilities as administrators. If women seem less experienced than their male colleagues it is because the patterns of discrimination have denied them on-the-job training and the varied responsibilities that produce seasoned administrators. Women's potential, however, is there -- not alone for directing small elementary schools, but for administering large high schools and for guiding troubled school systems.

As women learn to organize and to help support each other, as political action is increasingly accepted as women's work, as women educators continue to prove themselves dedicated and competent -- as all this happens, women will ask with increasing insistence, Where Are the Women Superintendents?

They will continue to ask, until the reason for the question disappears.

Charlene Dale

COMMITTEE ON THE STATUS OF WOMEN

NATIONAL COUNCIL OF ADMINISTRATIVE WOMEN IN EDUCATION

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PATTERNS OF DISCRIMINATION

At a recent large-city Board of Education meeting members of the local Council of Administrative Women in Education produced data which proved that women administrators in that school system were excluded from top administrative and policy-making positions. "Where are the women superintendents?", the women asked. "Where are the women department heads?"

Members of the Board were surprised at the questions and had no answers. The chairman of the Board did explain that consideration was given to qualified candidates but that there had been no women applicants. The sigh of agreement around the conference table implied that this simple explanation was accepted. The Board did go a step further. It adopted a motion that the matter be placed with the Personnel Committee for study.

This Board of Education, typically American and predominately male, takes seriously its public trust. Within a month, a typewritten report on the employment of women in that school system was produced. The report confirmed that there were few women in the top echelons but pointed out that there were practical and logical reasons for the situation. These reasons were the usual ones:

. . . Women have home responsibilities;

. . . Women have to stop work to have babies;

. . . Women can't be counted on to stay on the job;

. . . Women don't want demanding jobs.

The report continued, sounding logical all the while.

The report had been carefully and systematically prepared. It had been completed after extensive discussion among school board members, conferences with the administrative staff, and examination of the data available in the school district. An adequate amount of interchange had taken place. Much of the responsibility for the situation was placed upon women. "Women do not prepare themselves," the report stated. "Women do not want the burdens of responsibility."

From its point of view, the Board had dealt fairly with a local personnel question. Unfortunately, despite the care expended on it, the report was not entirely reliable. It was researched and

written in the majority by successful men; and successful men, as well as unsuccessful men, have difficulty in understanding the intricacies of sex discrimination.

Unrevealed -- and crucial by their absence -- were some vital statistics. Nothing in the report mentioned the United States Department of Labor survey shows that an increasing number of women are heads of households; that an increasing number of families are giving priority to the woman's job. Nothing was said about the fact that people working at high-level, high-paying jobs have low job turnover, whether they are men or women. nothing was included to suggest that a woman's family might be willing to accommodate itself to changes in her job situation.

Missing in the report was testimony from those most familair with the topic. Women educators in the United States long have lived with the realities of discrimination and are able to write their own story of why so few women are in top administrative and policy-making positions. Whenever these women come together for an exchange of views and observations they find emerging gradually the fact that all of them are facing the same subtle patterns of discrimination. These patterns form an invisible barrier for women who aspire to administrative and policy-making positions.

It is true that most women educators do not get their masters degrees and their doctorates. It is also true that most women do not desire to become deans or commissioners of education. Neither do most men. Wherever leadership resources are valued and utilized, advancement is determined in terms of individual goals, experience and ability -- not sex.

What are the patterns of discrimination? Are they major or minor to the professional development of a woman educator? Can they be ignored? Would hard work and loyal service not be recognized on their own merit? Where does the blame lie? Is discrimination real or fancied? How does one know it exists? What can be done about it?

WHAT ARE THE PATTERNS?

Evolving from the aggregate experience of many administrative women is recognition that most school systems are unable to distinguish between women who wish to make teaching their final goal and those who prepare themselves for administration and who seek the challenge of wider responsibilities. For this latter group, it is the system that is failing in its duty of leadership development, not women. The reasons are inherent in the system.

Generally, out-dated instutionalized arrangements, often irrel-

evant to modern life, continue to thrive because they serve the traditions of the organization or they support the need of current leaders. Renewed attention has not been given to the purposes of the institution or to the students who must prepare for the reality of the future. Contrary to the idea of equality or democracy, the artificial divisions of labor often fail to serve the present needs or best interests of students and female employees. The patterns demonstrate an acceptance of second-class citizenship for female educators and all girls coming through the system. With no room at the top, female students and employees quickly recognize the signals -- and the ambition and aspirations of thousands of individuals are quietly and permanently depressed.

WOMEN WHO PREPARE

What does happen to women within the system who prepare themselves, have talent, and have the desire to attain top positions? What happens that prevents them from attaining the rewards of their labors? What are the pressures which limit and restrict their advancement?

A social system has powerful means of molding and socializing its employees to accept the decisions of the policy-makers. If policy-makers agree that it is "natural" for men to occupy the important positions, they develop a rationale to justify their stance -- men have families to support; women are too emotional; boys need father-figures. An unwritten policy develops.

Through such organizational power personality traits can be conditioned to provide proof that women are unsuited for certain jobs. The following example is illustrative of a common dilemma of many potentially successful women administrators. - - -

A woman is seeking advancement. If she is passive and pleasant it is said she does not have the dynamic thrust necessary for leadership. If she is assertive and persistent in eliciting the best from a staff it is said she is too demanding and hard on employees. Either way, she is criticized.

If this helpful guidance continues long enough, those in charge of making decisions can truthfully agree that the women in their organization do not seem self-confident and that they appear to lack the qualities leaders must exhibit.

An interesting phenomenon is revealed in close examination of most educational settings. What should be recognized as myths about women educators have, in some cases, become self-fulfilling phrphesies because it is the educational system itself which has the prerogative of determining policy, conditions and judgements.

...Within the system a woman educator is constantly subject to hidden factors beyond her control. One of the most decisive, and one over which she can exert little influence is the general opinion of women held by superiors to whom she must report and whom she must convince that she merits advancement. If she is dealing with a male employer who believes a woman's prime duty is to serve man, she might well find that her industry and her ability will be unrecognized. Moreover, if the unwritten policies and the personal judgments of superiors coincide in the belief that men are the natural leaders, the woman educator has little chance to extend her professional development, irrespective of her success in her space of responsibility.

... The female educator is not viewed as a professional --as an individual capable of arranging or adjusting her personal or business affairs as required. Whether she is single, widowed, divorced, married and has grown children, or has an extremely flexible husband, the prospective employer generally seems more concerned with her personal life than with her professional achievements and potential. At every level of the advancement ladder, she is penalized by the personal attitudes of male employers.

... Many administrators automatically eliminate women from promising positions because they assume they cannot travel or they cannot relocate their homes. Such denial of opportunity is damaging to a man or a woman who is serious about building a reservoir of experience and professional know-how. Mobility in the early stages of one's career is often a prerequisite for gaining wide experience. Men who plan to advance are often mobile during their late 20's and 30's, relocating to take advantage of positions as principals or beginning superintendents. Women of this age, irrespective of degrees or experience, typically continue to be kept in the classroom, gaining maturity rather than experience.

... Within the system women usually receive little encouragement to advance; if they seek a position in another system they are assumed to be too youthful and inexperienced. Mobility and increased experience thus are denied a woman at a crucial stage of her professional career.

SELF-FULFILLING PROPHECIES

... The self-fulfilling prophesy that career women are hesitant about relocating is often a side effect of their limited mobility. Most professional persons tend to be either place-oriented or job-oriented. The job-oriented person feels secure; he can resign usually from a job which isn't satisfactory and take his established stock-in-trade to a more promising location. By securing a vote of confidence from his new employers, the seasoned mobile educator is able to move from one position to another so that he

is surrounded by at least a few people who have an interest in his success and satisfaction.

On the other hand, a woman educator seldom has the chance to become the type of professional whose competence is established, widely recognized, and transferrable; she must build her security where she works and lives. Typically she develops a network of local friends and activities which enrich her professional and personal life. In contrast, men tend to form these associations after a period of mobility. Women who are forced to be more place-bound tend to form much earlier ties which provide a foundation for their sense of security. If, late in her career, a woman attains recognition and is offered a position away from home it is not surprising that she may prefer to pass up the option. Another prophesy is fulfilled!

... The need for accommodation in special circumstances is not least among the established attitudes that block the flow of women to top positions. School systems are quick to recognize and to respond to the special needs of male employees, such as special consideration to meet military service requirements. Traditionally, women do not receive special consideration to meet the needs of child-bearing. It has been almost axiomatic that, in the case of child-bearing, the father has been congratulated and often received an increase in salary; the teaching mother has lost her position.

Women have begun to challenge this policy. They point out that men are not dismissed from their positions because of temporary disability and often are compensated for it in the form of financial benefits, sympathy, and assurances that the job is still there whenever they return. Boards of Education are being forced to change their policies on pregnancy. It is no longer acceptable to assume that parenthood for the man indicates his willingness to take added responsibility and at the same time to assume it demonstrates the woman is not serious about her profession.

WOMEN WHO ATTAIN

The climate which surrounds the woman who is promoted is often much different than that which surrounds her male counterpart. The man is frequently introduced to his colleagues amid comments of confidence such as -- "Fine administrator -- great on the job -- we are all behind you." This new appointee will probably attain success inasmuch as his superiors have informed all concerned that cooperation is expected of all employees to help the new man get off to a good start.

A newly appointed woman usually has to make her own way.[1] Because her employers are doubtful about the ability of women in general, they seldom commit themselves in advance to her success. They

hedge so that if she "doesn't work out" they will not have been caught in an error of judgment. They give the new appointee and those she must direct the impression that. "We will let her try and see how it goes." Under these circumstances, complaints are likely to arise. In a short time her superiors may decide ".... it just doesn't work." Or, "Women just don't like to work for other women. Too bad. We tried." When a less responsible job opens they are ready to suggest that she would be happy with a change because the job has fewer problems. All too often a potentially capable woman administrator, shaken by a loss of confidence, agrees that her superiors may be right!

On the chance that the promising young man encounters dissent, what then? It is not unusual for the difficulty to be explained as an impossible situation and he is sometimes moved to a better paying position. By handling the situations involving men and women administrators a little differently, a school system reaffirms a typically sacred belief that men seem to work out better for important jobs than do women.

Subtle and elusive discrimination creates an injustice. The woman is forced to make a difficult personal decision. She may have to choose among three uninviting prospects: (1) accepting self-doubt and loss of confidence with its subsequent damage to her spirit; (2) allowing seeds of cyncism and disillusionment to grow within her personality; or (3) fighting a lonely battle which often separates her from friends and lowers, even more, her chance for success.

PERVASIVE PATTERNS

The patterns of discrimination are pervasive and many women fall under their influence; they too become convinced that a job with real growth potential would be too demanding for them. Overlooked is the fact that many women teachers constantly formulate new projects for their students, assist in extra-curricular activities, and spend numerous evenings working with education committees. It is not surprising that some women are beginning to question why employers insist that higher paying jobs are "more demanding" and unsuitable for women.

In recent years the professional preparation of women educators has risen without a corresponding upgrading of their positions. The patterns of discrimination have become sharply apparent, affecting an increasingly large number of women in education. The National Education Association reports that although women in education are in ever-increasing numbers earning masters degrees and doctorates, almost 95 percent are employed as teachers, nurses, or librarians -- not administrators.

The National Council of Administrative Women in Education proposes that the time is here to advance American education by enlivening the upper levels of the educational establishment with a new flow of qualified women into administrative and policy-making positions. Barring women from advancement is neither democratically healthy for school systems nor emotionally healthy for the person involved.

This report on patterns of discrimination as observed by women educators themselves merely notes the most obvious examples of discrimination. Further examination is needed of the reasons why there are so few women in administrative and policy-making positions in education.

ONLY WHEN ALL THE FACTS ARE ON THE TABLE CAN BOARDS OF EDUCATION HONESTLY ANSWER THE QUESTION: "WHERE ARE THE WOMEN SUPERINTENDENTS AND WHERE ARE THE WOMEN DEPARTMENT HEADS?"

Charlene Dale, Chairman
NCAWE Committee on The Status of Women

WHERE ARE THE WOMEN SUPERINTENDENTS?

TABLES

TABLE I - ESTIMATED NUMBER OF FULL-TIME PUBLIC-SCHOOL PROFESSIONAL EMPLOYEES, BY SEX, 1970-71

Position	Number of Staff			Percent of Total		
	Total	Men	Women	Total	Men	Women
INSTRUCTIONAL STAFF:						
Teachers (full-time)	2,034,581	667,751	1,366,830	100.0%	32.8%	67.2%
Principals:						
Elementary	47,714	37,673	10,041	100.0	79.0	21.0
Junior high	8,782	8,472	310	100.0	96.5	3.5
Senior high	13,763	13,349	414	100.0	97.0	3.0
Total principals	70,259	59,494	10,765	100.0	84.7	15.3
Assistant principals:						
Elementary	5,119	3,388	1,731	100.0	66.2	33.8
Junior high	6,777	6,022	755	100.0	88.9	11.1
Senior high	11,403	10,383	1,020	100.0	91.1	8.9
Total assistant principals	23,299	19,793	3,506	100.0	85.0	15.0
Other instructional staff:						
Head of department	12,478	8,639	3,839	100.0	69.2	30.8
Librarian	30,757	2,658	28,099	100.0	8.6	91.4
Counselor	39,348	20,897	18,451	100.0	53.1	46.9
Social worker & visiting teacher	6,002	1,051	4,951	100.0	17.5	82.5
Psychologist/psychometrist	3,980	1,827	2,153	100.0	45.9	54.1
School nurse	15,639	126	15,513	100.0	0.8	99.2
Other (position not stated)	563	235	328	100.0	41.7	58.3
Total other instructional staff	108,767	35,433	73,334	100.0	32.6	67.4
Total instructional staff	2,236,906	782,471	1,454,435	100.0	35.0	65.0
CENTRAL-OFFICE ADMINISTRATORS:						
Superintendents	14,379	14,289	90	100.0	99.4	0.6
Deputy or associate superintendents	731	676	55	100.0	92.5	7.5
Assistant superintendent	4,402	4,276	126	100.0	97.1	2.9
Admin.Asst. to Superintendent.	2,345	1,989	356	100.0	84.8	15.2
Administrator for:						
General administration	10,414	5,398	5,016	100.0	51.8	48.2
Finance and school plant	6,980	6,390	590	100.0	91.5	8.5
Pupil personnel services	7,510	4,636	2,874	100.0	61.7	38.3
Instruction-admin.&supervision	10,881	5,846	5,035	100.0	53.7	46.3
Special subject areas	7,664	4,891	2,773	100.0	63.8	36.2
Total central-office administrators	65,306	48,391	16,915	100.0	74.1	25.9
Total-all professional employees.	2,302,212	830,362	1,471,350	100.0%	36.1%	63.9%

From: NEA Research Bulletin Vol. 49, Number 3 - October 1971

TABLE 2 - DISTRIBUTION OF ADMINISTRATIVE POSITIONS HELD BY MEN AND WOMEN IN THE PUBLIC SCHOOLS OF THIRTY STATES

THIRTY STATES	SUPERINTENDENTS																		PRINCIPALS							
	State				County				City										High		Jr. High Middle		Elementary		Total	
	State Superintendent		Deputy Associate Assistant		County District Regional		Deputy Associate Assistant		City Village Town		Deputy Associate Assistant		High		Elementary		Combined									
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
ALA.	1	0	0	0	66	1	46	0	60	0	34	0	0	0	0	0	0	0	155	0	90	1	191	80	643	82
ALASKA	1	0	1	0	38	0	11	0	0	0	0	0	1	0	0	0	8	0	34	1	23	0	181	30	298	31
CALIF.	1	0	8	0	57	1	102	10	243	0	334	4	09	0437	5	0	0		991	12	533	23	4665	702	7480	756
COL.	1	0	5	0	176	2	81	0											163	0	191	0	620	83	1237	85
CONN.	1	0	5	0	14	0	0	0	119	0									139	1	79	2	703	179	1060	182
DEL.	1	0	3	0	26	0	17	0											31	1	39	0	112	18	229	19
GA.	1	0	5	0	187	4	71	0									38	1	333	3	176	4	975	222	1786	234
IDAHO	1	0	2	0	100	1	6	0	1	0	2	0							115	0	70	0	245	31	542	32
ILL.*	1	0	16	0	119	10	79	36	1034	62	16	5	121	0					635	18	334	5	1930	629	4285	765
KAN.	1	0	5	0	311	0	56	0											384	1	140	1	1024	83	1921	85
KY.	1	0	7	0	125	1	83	5	67	4	25	0							322	0	43	0	54	190	1218	200
LA.	1	0	6	0	66	0	55	2									171	2	388	3	139	5	577	168	1203	180
MI	1	0	8	0	85	1	0	0	44	1							5	0	116	0	107	5	272	152	638	159
MASS	1	0	2	0	82	0	23	0	350	1	203	9							297	10	276	4	1280	585	2514	609
MISS.	1	0	1	0	117	3	0	0	53	0									293	1	150	3	487	156	1112	163
MONT.	0	1	2	0	7	49	0	0	176	0									103	0	28	0	226	27	542	77
NEB.	1	0	5	0	56	37	0	0	22	0	29	0	310	2	6	1			247	3	61	2	211	121	948	166
NEV.	1	0	6	0	17	0	13	0											63	0			119	5	219	5
N.H.**	1	0	6	2	42	0	35	2											67	0	28	0	218	42	397	46
NEW M.	1	0	1	0	99	0	28	0											181	0	89	1	336	38	725	39
NY	1	0			69	9			287	0			(Data not available)												357	9
N.D.	1	0	3	0	13	40													232	6	16	0	182	66	447	112
OHIO	1	0	5	0	144	0	25	1	624	0	291	1							740	4	250	10	2412	556	4492	572
OKLA	1	0	4	0	59	11	2	31	596	21	39	0							463	4	208	2	737	93	2109	165
PENNA.	1	0	1	0	29	0	58	0	489	1					(Data not available)										578	1
S.D.	1	0	6	0	180	1													186	2	37	2	204	48	614	53
VT.	1	0	2	0	51	1	25	3											65	1			63	14	207	19
VA.	1	0	3	0	96	0	97	0									54	2	259	1	160	3	879	338	1549	344
WASH.	1	0	4	0	257	2	100	2	245	0	89	0							317	0	238	1	924	55	2175	60
WY.	1	0	4	0	56	1	14	0					5	0	9	0			70	2	44	1	157	74	360	78
TOTAL	29	1	126	2	2734	175	1027	95	4410	90	1062	19	546	2	452	6	276	5	7188	74	3549	75	20485	4785	41885	5329
	97	3	98	2	93.9	6.1	91.5	8.5	94	6	97.4	2.6	97.8	2.2	98.5	1.5	98.1	19	98.9	1	97.9	2.180.6	19.4		88.7	11.3

*(68-69)
** (1970-71)

TABLE 3

DISTRIBUTION OF ADMINISTRATIVE POSITIONS HELD BY MEN AND WOMEN IN THE PUBLIC SCHOOLS OF SELECTED LARGE CITY SCHOOL SYSTEMS

SELECTED CITIES	SUPERINTENDENTS								PRINCIPALS							
	City		Deputy		Assoc. Ass't. Area		Sub-School or Community		High		Middle		Elementary		Total	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Atlanta	1	0			10	0			25	0	3	0	66	63	105	63
Boston	1	0	1	0	9	2			17	5	16	1	82	44	126	52
Chicago	1	0	1	0	11	5	20	7	59	11	30	8	276	166	398	197
Cincinnati	1	0			4	0			10	0	15	0	55	19	85	19
Cleveland	1	0	1	0	3	0			16	1	24	4	41	93	86	98
Denver	1	0	1	0	3	0	9	0	10	0	20	0	59	11	103	11
L.A	1	0	3	0	16	2			54	1	67	11	237	201	378	215
New Orleans	1	0	0	0	7	1			13	3	15	5	40	56	76	65
NY C.	1	0	3	0			23	8	102	9	99	24	619	189	847	230
Omaha	1	0	7	0					8	0	11	2	17	56	44	58
Portland	1	0	1	0	6	0			12	2	1	0	8	5	29	7
San Diego	1	0	2	0	5	0			14	1	17	1	104	22	143	24
S.F.	1	0	3	0	7	0			9	3	18	0	47	52	85	55
Seattle	1	0	2	0	3	0			12	0	18	1	74	11	110	12
	14	0	25	0	84	10	52	15	361	36	354	57	1725	988	2614	1106
Percentages	100		100		89.5	10.5	77.6	22.4	90.9	9.1	86.1	13.9	63.5	36.5	70.2	29.8

AT THE LOCAL LEVEL

HOW DOES YOUR SCHOOL DISTRICT RATE?

Are the number of women in administrative positions comparable to the number of men in administrative positions?

Are women encouraged by the superintendent to qualify themselves for administrative positions?

Are women provided opportunities to gain a wide range of administrative experience?

HOW TO IMPROVE YOUR SCHOOL SYSTEM

Appoint qualified women as well as men to administrative positions.

Search for the finest leadership. Do not overlook women!

Use many in-service techniques to identify leadership qualities in men and women.

Alert women to use their talents to contribute to the school system by preparing themselves for work beyond the classroom.

Jennie Visokovicz

NEW FEDERAL LEGISLATION

WHAT THE GOVERNMENT WILL REQUIRE

Previous to 1972, women teachers and students had almost no protection against discrimination. In the last Congress, legal coverage was expanded to include educational institutions and protection was extended to both teachers and students.

There are now three Federal remedies for sex discrimination -- the Equal Pay Act, Title VII of the Civil Rights Act, and Executive Order 11246; all are available to employees of school systems.

These Federal laws provide that women shall have essentially the same work rights as men -- that differences of treatment based on sex are illegal -- including recruitment, pay, promotion, training, seniority, leave, pensions, and separations.

THE EQUAL PAY ACT

Although the Equal Pay Act, the first Federal remedy, is of limited scope -- requiring only equal pay for equal work -- its enforcement provisions are strong and applied to a whole establishment. The law is enforced through routine inspections by Labor Department wage and hour investigators and through individual complainants, whose identity is not revealed.When an individual complains, the entire establishment is inspected and corrective action taken with respect to all employees who are being underpaid in violation of the Equal Pay Act. If only one division of the establishment employs women, only that division will be inspected.

The Labor Department has authority to enforce through the courts if the employer does not correct violations. Aggrieved employees can also institute suits. There is a two-year or three-year statute of limitations on back pay, depending upon whether the violations are "willful" in the civil as distinguished from the criminal sense.

Large back pay awards have been made in a number of cases:

Wheaton Glass Co.	$901,062,34	Midwest Mfg. Co.	$240,000.00
American Can Co.	$149,927.84	Radio Corp.of America	$125,000.00

A total of 48 million dollars in back pay has been found due to 113,000 employees, mostly women, since the Act became effective in June 1964. Complaints were filed against 385 establishments in fiscal year 1969; against 1,203 in 1971 and against 1,115 in 1972.

Since the Act was amended to cover executive, professional, and administrative employees on July 1, 1972, no court precedents have been established. The following information concerning interpretations for other types of employment may be useful.

The Equal Pay Act has been held to apply to work that is substantially equal in terms of skill, effort, or responsibility. The 3rd Circuit stated the principle in Shultz v. Wheaton Glass Co.:

> Congress in prescribing "equal" work did not require that the jobs be identical, but only that they must be substantially equal. Any other interpretation would destroy the remedial purpose of the Act.
>
> The Act was intended as a broad charter of women's rights in the economic field. It sought to overcome the age-old belief in women's inferiority and to eliminate the depressing effects on living standards of reduced wages for female workers and the economic and social consequences which flow from it. (421 F. 2d 259,265(3d cir.), cert. denied, 398 U.S. 905,1970).

Employers cannot avoid equal-pay requirements by removing a few duties from women's jobs or adding a few duties to men's jobs in an effort to make them "unequal." Transferring members of one sex to other jobs will not eliminate a previous violation.

The assignment of minor weight-lifting or other heavy work to men otherwise performing the same primary duties has been rejected as a defense against charges of unequal pay (Schultz v. American Can Co. - Dixie Products, 424 F.2d 356, 8th Cir. 1970). The Courts have held that the exertion of greater physical effort by men could be overcome by greater mental alertness and concentration required by the women's jobs (Hodgson v. Daisy Manufacturing Co., 317 F. Supp. 538, W.D. Ark, 1970, affirmed by the 8th Circuit 445 F.2d 823, July 13, 1971).

Allegations that women are absent more than men or that it costs more to employ women than to employ men have been denied as defense under the Equal Pay Act (Wirtz v. Midwest Manufacturing Corp., 18 Wage & Hour Cas. 556,S.D. Ill. 1968).

TITLE VII

Title VII of the Civil Rights Act of 1964, effective July 2,1965, prohibiting discrimination in all phases of employment, is broad in scope, but enforced only for classes of individuals represented in the complaint.

Title VII as amended in March 1972 includes teachers and public employees at all levels below the Federal -- State, county, municipal, and school boards. Organizations can now file complaints for classes of employees so that individual employees need be identified only to the Commission.

The Equal Employment Opportunity Commission, the administering agency, can enforce through the courts if conciliation fails. Prior to the Amendment, the agency could conciliate only, and the enforcement was largely by individuals. A surprisingly large number of suits were brought by women employees -- almost entirely blue collar and low paid clerical employees -- women of extraordinary courage, intelligence, and leadership, who have been isolated and harrassed in retribution. Several of the landmark decisions in the Circuit Courts of Appeals have been won by volunteer women attorneys.

The Justice Department recently obtained consent decrees against Libbey-Owens-Ford Co., Obear-Nester Glass Co., of E. St. Louis, Illinois, and Household Finance Corporation. In the Libbey-Owens-Ford case the Justice Department secured for the first time in a Title VII case the right for the plaintiffs to displace men who had benefited from discrimination. The Household Finance Corporation decree included back pay and a formula for computing it, as well as goals and timetables for correcting effects of past discrimination against women and blacks.

Several large awards of back pay have been made. Lorena Weeks, in addition to promotion to the job of switchman, which she had been illegally denied, received over $30,000 from Southern Bell, not including her attorney's fees. This represented back pay with interest -- including the overtime pay earned by the man promoted to the job she was denied.

Anaconda Aluminium Co. was ordered to pay $190,000 in back wages and court costs to 276 women, who had been the victims of collective bargaining agreements that first classified jobs as "male" and "female" (the female jobs paying less, of course) and later classified the jobs "light" and "heavy" with women restricted to the"light" jobs.

Women at Colgate-Palmolive's New Albany, Indiana plant were awarded $96,000 in back pay plus 6% interest. Actionable charges filed under Title VII rose from 1,880 in fiscal year 1967 to 4,624 in fiscal year 1971 and undoubtedly will continue to rise

since coverage has been increased.

In March 1972 the Equal Employment Opportunity Commission issued guidelines for sex discrimination, undated to reflect recent court decisions and recent opinions of the Commission. Here again the coverage of teachers is so recent that there are no pertinent court decisions.

The following summary of Equal Employment Opportunity guidelines may be useful.

QUALIFICATION EXCEPTION

Title VII of the Civil Rights Act of 1964 provides that jobs may be restricted to one sex "in those certain instances where religion, sex, or national origin is a bona fide occupational qualification (bfoq) reasonably necessary to the normal operation of that particular business or enterprise..." As is appropriate under the general rules of statutory construction and the legislative history, the EEOC has given the bfoq exception provision a very narrow construction. Decisions in the 5th, 7th, and 9th Circuit Courts of Appeals and in the lower courts have upheld this approach.

Employers may not refuse to hire a woman (or a man) based on assumptions of the comparative employment characteristics of women (or men) in general such as -- the turn over rate is higher for women than for men. Preferences of co-workers -- employers, clients, or customers are not a defense. The lack of separate facilities for a person of the opposite sex will not justify a bfoq exception.

The EEOC guidelines do provide that a bfoq exception is in order where necessary for the purposes of authenticity or genuineness, e. g. an actor or actress.

EEOC guidelines and the Federal courts have held that State laws prohibiting the employment of females in certain occupations, in jobs requiring the lifting or carrying of weights exceeding certain limits, or in jobs requiring work at night or for more than a specified number of hours are not encompassed within the bfoq exception, and hence are in conflict with Federal requirements.

One of the most common reasons employers and unions give for restricting women to certain jobs is that the job requires lifting of heavy objects or is a heavy duty job. Jobs that were classified as "female" jobs frequently became "heavy duty" jobs after

Title VII became effective.

The lack of validity for these classifications is well illustrated by examination of a publication of the U. S. Department of Labor called "Selected Characteristics of Occupations by Worker Traits and Occupational Strength." The Labor Department rated 75,000 jobs in terms of required physical strength as "sedentary," "light," "medium," "heavy," and "very heavy." Charwoman, traditionally considered a female job was rated as "heavy", while jobs such as "concrete-mixing truck driver" and "tower-excavator operator" are rated as "light". "Power shovel operator" is rated as "medium." Very few jobs are rated as "heavy" and even fewer as "very heavy."

In the Colgate case the employer's defense under Title VII for refusing to assign women to certain jobs was based on the weight-lifting requirement. Sworn testimony showed that in many instances the jobs women held were more difficult and more strenuous than the men's jobs. In some instances women were doing hard manual labor, the operations were automated, they were relieved of their duties, and men were assigned. Women were refused assignments to a job that a slight man who had had three heart attacks was performing without difficulty.

The thrust of the guidelines and Court decisions interpreting the bfoq exception is that men and women applicants and employees cannot be considered or treated as a class. Each individual must be considered on his or her own merit. The bfoq exception will so rarely be in order that the safest and most sensible course for employers to follow is to assume that no job may be denied to all women or to all men.

STATE LABOR LAWS

The weight of legal decisions is that the "protective" labor laws restricting hours, weight-lifting, and occupations of women workers are in conflict with Title VII and superseded by it.

The new EEOC guidelines hold that State laws providing benefits for women workers, such as minimum wages, premium pay for overtime, and rest periods are extended to men. It is clear that women cannot be denied opportunities because of these provisions. Whether they must be extended to men has not been extensively litigated. The EEOC participated as amicus curiae in the case of Potlatch Forest, Inc. v. Hayes where the Court found that there was no conflict between Title VII and an Arkansas premium pay law because the employer could comply with both statutes by paying both men and women the overtime rate which the State required for

women (318 F. Supp. 1368, E.D. Ark. 1970). The safest assumption for employers is to extend such laws to men. The Courts have relied extensively on EEOC guidelines.

RECRUITMENT

In recruiting activities employers must recruit employees of both sexes. Ads must not express a sex preference and must not be placed in sex-headed columns. Notices concerning non-discrimination must be posted in conspicuous places available to applicants and to employees.

Guidelines interpreting Executive Order 11246 require that employers must take affirmative action to recruit women to apply for those jobs where they have been previously excluded, such as apprenticeships. Likewise, employers must demonstrate a commitment to include women condidates in management trainee programs.

Married women and women with legitimate or illegitimate children may not be excluded as a class unless a similar policy is applied to men. The Supreme Court has held that tests which eliminate disparate numbers of minority groups cannot be used unless they validly measure attributes needed on the job. This principle would also apply to tests which eliminated disparate numbers of women.

It would be suggested, although no guidelines now require it, that employers review their recruiting and employment procedures. In such a review, one employer found that clerks receiving applications at the gate sorted them by sex into bins -- with the women's sorted into bins for jobs traditionally held by women. Thus when a foreman asked for applicants for a job, he received only men for traditionally men's jobs and only women for traditionally women's jobs. Such seemingly minor clerical operations could lead to grief.

Title VII's pay-coverage is broader than the Equal Pay Act;Title VII covers the situation where women only are employed in a classification and the wage rate is discriminatorily depressed because it is a traditionally woman's job. Under Title VII rates paid men doing comparable work in the company involved or men doing the same work at other plants in the industry could be used as evidence of violation of Title VII, but not as evidence of violation of the Equal Pay Act.

BENEFITS

Title VII's prohibition against sex discrimination in "terms, conditions, or privileges of employment" would appear to require

that job-related insurance and retirement plans must be equally available to members of both sexes and that the benefits thereof be equal for both sexes; and the new EEOC guidelines take this position.

The Department of Labor, interpreting the Equal Pay Act, has provided that if an employer's contribution to a plan providing insurance or similar benefits to employees are equal for both men and women, no wage differential prohibited by Equal Pay Act will result from such payments, even though the benefits which accrue to the employee in question are greater for one sex than for the other. On the other hand, any plan that provides equal benefits for both sexes will not be a violation even though the employer makes unequal contributions. The Labor Department is currently reviewing its interpretation in the light of the EEOC guidelines.

In spite of the lack of clarity on this one issue, which may be more hypothetical than real, certain practices with respect to fringe benefits seem to be clearly prohibited. Differences in optional or compulsory retirement ages based on sex are prohibited and plans making different provisions for widows than for widowers have been held in violation. One judicial decision held that an employer violated Title VII by providing differentials in retirement age and pension benefits based on sex. The Court further held that a revision of this plan was unlawful even though it eliminated the sex differential in the main because it contained an exception for certain incumbent female employees (Rosen v. Public Service Electric and Gas Co., 2 F.E.P. Cas. 1090, D.N.J. 1970). This case is on appeal. The Seventh Circuit held in Bartmess v. Drewrys U.S.A. Inc. that a retirement plan retiring women at 62 and men at 65 was in violation of Title VII (3 F.E.P. Cas. 794, 1971).

The following practices have been held by the EEOC to be in violation of Title VII: a group health insurance plan providing hospital and surgical benefits only to dependents of employees who have "head of household" status, a status the employer assumes applies to married males but not married females; an employer's insurance plan limiting the purchase of health insurance covering all dependents and affording maternity benefits to those employees who have "head of household" status; group insurance plans under which coverage is available for the wives of male employees but not the husbands of female employees; and a group health insurance plan which provides immediate maternity benefits for the wives of male employees but conditions the eligibility of female employees on two years of employment.

The new EEOC guidelines treat maternity as a temporary disability and require an employer to provide all the benefits provided for

other temporary disabilities. Conditioning maternity leave on two years of employment violates the Act where leaves of absence and disability leaves were not subject to any similar requirement. Temporary disability insurance and sick leave plans excluding or placing special limits on maternity coverage are in violation of Title VII according to the EEOC interpretation.

There are not yet Federal court decisions interpreting Title VII as it relates to maternity. There have been two circuit Court of Appeals decisions holding that the 14th amendment was violated by school board rules requiring teachers to begin leave at the end of the 5th month. (Cohen v. Chesterfield County Board of Education 326 F. Supp. 1159 E.D. Va., 1971; La Fleur v. Cleveland Board of Education, 326 F. Supp. 1208 N. D. Ohio, 1971). These cases did not present the issue of use of sick leave, but several cases filed recently under Title VII raise this issue. The International Union of Electrical and Machine Workers have filed complaints on behalf of their employees in Federal District Court in Richmond; the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America-UAW have filed complaints on behalf of their employees with the EEOC.

SENIORITY

Seniority lists or lines of progression based on sex are prohibited. Where plant-wide seniority has been in effect it may be possible to correct a segregated seniority system merely by integrating the system. However, where departmental, gang, or job seniority is a factor in determining transfers and promotions additional adjustments in the system may be needed to eliminate the effects of past discriminations. Otherwise women with long years of plant service will remain excluded from certain jobs, gangs, and departments. There have been a number of Court decisions on this issue relating to race and two relating specifically to sex: Bowe v. Colgate-Palmolive Co., 416 F.2d 711 (7th Cir. 1969) and U. S. v. Libbey-Owens-Ford Co., 3 E.P.D. 8122 (N. D. Ohio 1970).

EXECUTIVE ORDER 11246

Unlike Title VII and the Equal Pay Act, which are designed primarily to secure redress for wronged individuals, Executive Order 11246 is directed toward securing equal employment opportunity through affirmative action by the employer. Enforcement is through refusal to grant, or cancellation of, Government contracts. Federal Government contractors and subcontractors are required by this order to develop and implement written affirmative action programs to secure equal employment opportunity for women and minorities. State and local government contractors have

not been subject to the requirement for a written affirmative action program, but considerationa is being given to removing this exception.

Order 4, providing specific guidelines for developing the affirmative action plans required by Executive Order 11246, was revised to include sex in December 1971. It applies to those contractors in non-construction industries (including school systems) who hold Federal contracts with at least 50 employees and $50,000 in contracts.

Order 4 requires analysis of areas within which the contractor is deficient in the utilization of minority groups and women and establishment of "goals and timetables to which the contractor's good faith efforts must be directed to correct the deficiencies and thus to increase materially the utilization of minorities and women, at all levels and in all segments of his work force where deficiencies exist."

Women and minorities are considered underutilized in any job category in which there are fewer than "would reasonably be expected by their availability." The analysis is conducted separately for minorities and for women. Certain factors are set forth for consideration in determining whether minorites or women are underutilized. In such determination the contractor must take into account the minority population of the labor area, whereas for women he considers the availability of women seeking employment in the same proportion as the majority group, but for women this assumption cannot be made. Therefore, the availability of women seeking employment is substituted. Otherwise the factors to be taken into account are substantially the same.

Goals and timetables are to be set separately for women and minorities but "in the event it comes to the attention of the compliance agency or the Office of Federal Contract Compliance that there is a substantial disparity in the utilization of a particular minority group, the compliance agency or OFCC may require separate goals and timetables for such minority group and may further require, where appropriate, such goals and timetables by sex for such group for such job classifications and organizational units specified by the compliance agency or OFCC."

Contractors are directed to give special attention to the utilization of women in the categories of officials and managers, professionals, technicians, sales workers (except over-the-counter sales in certain retail establishments), and craftsmen.

THE EQUAL RIGHTS AMENDMENT

The Equal Rights Amendment provides simply that "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." It will become effective 2 years after it is ratified by 3/4 of the States. Simply put, the ERA requires legal equality. It will not directly affect private employment but will make unconstitutional discrimination in employment by Federal, State or local governments, including school boards. It will also require equality of treatment in public schools and State institutions of higher education (H. J. Res. 208, approved March 22, 1972).

EQUAL EMPLOYMENT OPPORTUNITY

The Equal Employment Opportunity Act of 1972, which gave the Equal Employment Opportunity Commission authority to enforce Title VII of the Civil Rights Act of 1964, was of great importance to teachers. The new law extended coverage of Title VII to "educational personnel" of educational institutions and to State and local government employees, groups that had previously been excluded. The law also extends coverage to employees and unions with 15 or more employees or members (previously 25). This last provision is not effective until March 24, 1973 (Public Law 92-261 of March 24, 1972). Title VII prohibits discrimination because of sex in all aspects of employment.

The Equal Pay Act was amended to extend coverage to executive, professional, and administrative employees and outside sales employees. Thus teachers, previously excluded, are now covered by the Act, (Section 906(b) (1), Public Law 92-318, approved June 23, 1972).

TITLE IX

Title IX of the Education Amendments of 1972 goes far toward prohibiting discrimination against students and teachers. The basic sentence reads as follows:

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...

This prohibition applies to all institutions, including public and private pre-schools, elementary and secondary schools, institutions of vocational, professional, undergraduate and graduate education that receive Federal monies by way of a grant, loan or contract. Exempted from all requirements are military schools and religious institutions controlled by religious organizations whose religious tenents are inconsistent with the anti-discrimination provisions. Exempted from the admissions provisions only are elementary and secondary schools other than vocational schools. Single-sex vocational schools are outlawed, but other single-sex elementary and

secondary schools will not be prohibited by Title IX.

Institutions of professional education, institutions of graduate higher education, and public undergraduate co-educational institutions may no longer apply different admission standards to men and women. Private under-graduate schools and single-sex undergraduate public institutions may continue to admit only one sex or to admit the sexes under different standards. Schools in transition from single-sex to co-educational are exempt from the admissions provisions provided a transitional plan has been approved by the Commissioner of Education. The exemptions from the Act other than those of religious institutions and military schools apply only to admissions. Benefits in co-educational schools must be administered without discrimination.

The Act is enforced by the Federal agency giving financial assistance. Complaints can be filed by individuals and organizations. Names of complainants are kept confidential, if possible, during the review process. Here again this law is so recent that no precedent cases have been decided by Federal agencies and no regulations have been issued.

CONCLUSION

The basic principle that emerges from Government employment requirements is that women must be treated as people. Employers, including school boards, must find ways to make supervisors aware of the ways in which they treat women differently from men in the work situation. Most of the behavior is unconscious and based on unexamined assumptions about the proper role of women and men.

Women also need to become aware of how they have reacted to and adjusted to differences in treatment. Some women will prefer the adjustments they have made to changes, or at least they will think they do.

For those small numbers of women seeking administrative posts, support should be given because justice will be served and because badly needed role models will be provided for young women students.

Teachers and school systems have a special responsibility to make students aware of the subtle ways in which discrimination is expressed. Practically all textbooks and supplementary reading provide examples of the many ways in which women and girls are put down or ignored.

In the coming years sex discrimination is not likely to be taken for granted nor accepted as natural. The difficulties of transition in school systems and educational institutions will be easier for employers who take steps early to inform themselves of the issues and who demonstrate good faith by initiating positive action to correct inequities.

Catherine East
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on the Status of Women

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